

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

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23-CR-236 (FB)

3 UNITED STATES OF AMERICA,

4 Plaintiff,

United States Courthouse
Brooklyn, New York

5 -against-

May 30, 2024
10 o'clock a.m.

6 NICHOLAS CERAOLO,

7 Defendant.

8 -----x

9
10 TRANSCRIPT OF CRIMINAL CAUSE FOR PLEADING
11 BEFORE THE HONORABLE MARCIA M. HENRY
12 UNITED STATES MAGISTRATE JUDGE

13 APPEARANCES

14 For the Government: UNITED STATES ATTORNEY'S OFFICE
15 Eastern District of New York
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16 Brooklyn, New York 11201
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Assistant United States Attorney

17 For the Defendant: OLSHAN GRUNDMAN FROME & WOLOSKY, LLC
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24 Proceedings recorded by mechanical stenography. Transcript
25 produced by computer-aided transcription.

Proceedings

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1 THE COURTROOM DEPUTY: Criminal cause for pleading,
2 23-CR-236, USA v. Nicholas Ceraolo.

3 Counsel, please state your appearance for the
4 record, starting with the Government.

5 MS. SISE: Good morning, your Honor. Ellen Sise for
6 the Government, and I'm joined by a summer intern with our
7 office, Casey Monyak.

8 THE COURT: Good morning to each of you.

9 MS. SISE: Thank you.

10 MR. APPLETON: Good morning, your Honor. Robert
11 Appleton on behalf of Defendant Nicholas Ceraolo, who's seated
12 with me at counsel table.

13 THE COURT: Good morning to each of you as well.
14 Good morning to the prosecution.

15 Mr. Appleton, how does your client wish to proceed
16 today?

17 MR. APPLETON: Your Honor, my client wishes to
18 change his plea of guilty to Counts One and Two of the
19 indictment under an agreement with the Government.

20 THE COURT: Mr. Ceraolo, your attorney does advise
21 me that you wish to plead guilty today or enter your guilty
22 plea today pursuant to a written agreement with the
23 Government.

24 This plea is a very serious decision. I have to
25 make sure that you understand your rights and the consequences

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1 of your plea. I'm going to explain some things and I'm going
2 to ask you some questions. I want your answers to be under
3 oath.

4 At this time, my deputy will administer the oath.

5 THE COURTROOM DEPUTY: Mr. Ceraolo, please stand and
6 raise your right hand.

7 Do you swear or affirm that the answers you're about
8 to give in connection to this plea will be the truth, the
9 whole truth, and nothing but the truth, so help you God?

10 THE DEFENDANT: Yes.

11 THE COURT: Thank you. Please be seated. And sir,
12 now that you have been sworn to tell the truth, you must tell
13 the truth. If you were to deliberately lie or omit material
14 information in response to any question that I ask you, you
15 could face additional criminal charges for perjury or for
16 making a false statement.

17 Do you understand that?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Can you just come a little closer to the
20 table so that the microphone -- they don't move. I just need
21 you to come closer so the microphone can pick up your voice.
22 Thank you.

23 In any such prosecution, the Government can use any
24 statements that you make here today under oath against you.

25 Do you understand that?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: If I say anything that you don't
3 understand or if you need me to repeat anything, please ask.
4 It's extremely important that you understand everything that
5 goes on in this proceeding.

6 Is that clear?

7 THE DEFENDANT: Yes.

8 THE COURT: In addition, if you need time to speak
9 privately with Mr. Appleton at any point during this
10 proceeding, please let me know. We will then pause the
11 proceeding and you will have that time.

12 Do you understand that?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: The first issue I want to address is
15 your consent for me to hear your plea today.

16 I am a United States Magistrate Judge. District
17 Judge Frederic Block is the assigned district judge in this
18 case. He will sentence you and will make the ultimate
19 decision as to whether or not to accept your plea.

20 You have the absolute right to have Judge Block
21 listen to your guilty plea. If you choose to do that, there
22 will be no prejudice to you.

23 Alternatively, if you choose, you may waive or give
24 up the right to have Judge Block listen to your plea.
25 Instead, I will listen to your plea.

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1 There is a court reporter here today who will make a
2 transcript of these proceedings. Judge Block will review that
3 transcript and decide whether to accept your plea. He'll also
4 review that transcript before he decides what your sentence
5 will be.

6 Now, I have before me a form entitled: Consent to
7 have a plea taken before United States Magistrate Judge Marcia
8 M. Henry.

9 Well, first, I know I'm a little far away, but is
10 this your signature on the first line here?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Mr. Appleton, is that your signature
13 underneath your client's?

14 MR. APPLETON: Yes, it is.

15 THE COURT: Ms. Sise, is this your signature above
16 the name of the U.S. Attorney?

17 MS. SISE: Yes, your Honor.

18 THE COURT: This document is dated today, May 30,
19 2024.

20 Mr. Ceraolo, have you reviewed this document?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Have you had enough time to discuss this
23 document with your attorney?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: I'm going to summarize what it says.

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1 It says that I informed you of your right to have
2 your plea taken before a district judge. It also says that
3 you've been advised that you can consent or agree to have your
4 plea taken before a magistrate judge; in this case, me.

5 It says that you understand that you won't suffer
6 any prejudice if you don't agree to have a magistrate judge
7 take your plea and it also says that you understand that if
8 you don't agree to that, then the assigned district judge,
9 Judge Block, would conduct the plea allocution.

10 It further says that you've discussed this matter
11 fully with your lawyer and, after doing that, you do agree or
12 consent to enter your plea before a magistrate judge; in this
13 case, me.

14 Do you understand everything that I've just
15 summarized?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: And do you wish to give up or waive your
18 right to have Judge Block listen to your plea?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Are you making this decision voluntarily
21 and of your own free will?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Has anyone threatened you or promised
24 you anything to get you to agree to have me hear your plea?

25 THE DEFENDANT: No, your Honor.

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1 THE COURT: I do find that Mr. Ceraolo is knowingly
2 and voluntarily consenting to plea before the magistrate
3 judge. As a result, I have signed the consent form.

4 Now I have to ask you a few questions about yourself
5 and your state of mind. First, can you just please state your
6 full name?

7 THE DEFENDANT: Nicholas Ceraolo.

8 THE COURT: How old are you?

9 THE DEFENDANT: Twenty-seven.

10 THE COURT: How far did you go to school?

11 THE DEFENDANT: I graduated high school.

12 THE COURT: Have you had any problems communicating
13 with your lawyer?

14 THE DEFENDANT: No.

15 THE COURT: Are you now or have you recently been
16 under the care of a doctor or a psychiatrist for any reason?

17 THE DEFENDANT: No.

18 THE COURT: Are you taking any medications?

19 THE DEFENDANT: Yes.

20 THE COURT: What medications are you taking?

21 THE DEFENDANT: Synthroid for autoimmune thyroid
22 disease.

23 THE COURT: When was the last time you took the
24 Synthroid.

25 THE DEFENDANT: About, like, a week ago.

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1 THE COURT: Does it affect your ability to
2 understand what's happening today?

3 THE DEFENDANT: No.

4 THE COURT: Any other medications?

5 THE DEFENDANT: No, that's all.

6 THE COURT: Have you had any alcohol to drink within
7 the last 24 hours?

8 THE DEFENDANT: No.

9 THE COURT: Have you taken any drugs recently?

10 THE DEFENDANT: No.

11 THE COURT: Have you ever been hospitalized or
12 treated for drug addiction.

13 THE DEFENDANT: No.

14 THE COURT: Have you ever been hospitalized or
15 treated for alcoholism?

16 THE DEFENDANT: No.

17 THE COURT: Have you ever been treated for a mental
18 or emotional issue?

19 THE DEFENDANT: Yes.

20 THE COURT: When was that?

21 THE DEFENDANT: A couple years ago.

22 THE COURT: Are you still being treated for that
23 issue?

24 THE DEFENDANT: No.

25 THE COURT: What was the issue?

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1 THE DEFENDANT: I was in, like, a psychological ward
2 at Jamaica Hospital years ago.

3 THE COURT: Any other hospitalizations related to
4 that?

5 THE DEFENDANT: Nope.

6 THE COURT: Do you believe that that's affecting
7 your ability to understand what's happening today?

8 THE DEFENDANT: No.

9 THE COURT: Is your mind clear now?

10 THE DEFENDANT: Yes.

11 THE COURT: And do you understand why you're here
12 and what we're doing here today?

13 THE DEFENDANT: Yes.

14 THE COURT: I note for the record that Mr. Ceraolo
15 does appear alert and able to understand the proceedings
16 today.

17 Mr. Appleton, have you had any problems
18 communicating with your client?

19 MR. APPLETON: No, your Honor.

20 THE COURT: Is he capable of understanding the
21 nature of the charge to which he is pleading guilty?

22 MR. APPLETON: Yes, he is.

23 THE COURT: And have you discussed the charges with
24 your client and what it means to plead guilty?

25 MR. APPLETON: Extensively.

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1 THE COURT: Have you advised him of the maximum
2 sentence and fine that can be imposed as a result of his plea?

3 MR. APPLETON: I have.

4 THE COURT: Have you discussed with him how the
5 sentencing guidelines operate?

6 MR. APPLETON: I have.

7 THE COURT: Have you discussed with him any
8 potential immigration consequences of his guilty plea?

9 MR. APPLETON: Yes, although I don't think there are
10 any.

11 THE COURT: Are you satisfied that he understood all
12 of your discussions?

13 MR. APPLETON: I am.

14 THE COURT: Do you think that he understands the
15 rights he'll be waiving by pleading guilty?

16 THE DEFENDANT: He does.

17 THE COURT: Do you have any doubt about his
18 competence to plead guilty here today?

19 MR. APPLETON: No, I don't, your Honor.

20 THE COURT: You can be seated and you can remain
21 seated for the remainder of the hearing.

22 Mr. Ceraolo, have you had enough time to discuss
23 your case with your attorney?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Are you satisfied with the assistance

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1 your attorney has given you in this case?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Now, I understand that you're seeking
4 today to plead guilty to Counts One and Two of the indictment.
5 Count One charges you with conspiracy to commit computer
6 intrusion and Count Two charges you with aggravated identity
7 theft. There are also forfeiture allegations related to Count
8 One.

9 Now, to convict you of these offenses, the
10 Government would have to prove beyond a reasonable doubt
11 specific elements for each offense. I'm going to review those
12 with you now.

13 For Count One, the conspiracy to commit computer
14 intrusion, the Government would have to prove beyond a
15 reasonable doubt that, first, two or more people entered into
16 the unlawful agreement charged in Count One in or about and
17 between April 2022 and May 2022.

18 Second, you knowingly and willfully became a member
19 of that unlawful agreement.

20 Third, that one of the members of the unlawful
21 agreement or conspiracy knowingly committed at least one of
22 the overt acts charged in Count One of the indictment.

23 And fourth, that that overt act was committed to
24 further some objective of this unlawful agreement or
25 conspiracy.

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1 Further, because this charges you with conspiracy to
2 commit computer intrusion, the elements of computer intrusion
3 are, first, that without authorization that a person accessed
4 a computer.

5 Second, that that access was done intentionally.

6 And then third, that the person committing the
7 access obtained information from any department or agency of
8 the United States.

9 Do you understand what the Government would have to
10 prove in order to convict you of the offense charged in Count
11 One of the indictment?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Now, for Count Two, aggravated identity
14 theft, the Government would have to prove beyond a reasonable
15 doubt, first, that you knowingly transferred, possessed, or
16 used without any lawful authority a means of identification of
17 another person.

18 And, second, that you knowingly transferred,
19 possessed, or used that means of identification during and in
20 relation to the offense charged in Count One; in other words,
21 in the course of this conspiracy to commit this computer
22 invasion.

23 Do you understand what the Government would have to
24 prove to convict you of the offense charged in Count Two of
25 the indictment?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Counsels, have I misstated or omitted
3 any of the essential elements of the offenses?

4 Mr. Appleton?

5 MR. APPLETON: No, your Honor.

6 THE COURT: Ms. Sise?

7 MS. SISE: No, your Honor.

8 THE COURT: Ms. Sise, under the *Crime Victim's*
9 *Rights Act*, crime victims have the right to be reasonably
10 heard in any public proceeding in the district court,
11 including plea hearings.

12 Does this case implicate the CVRA?

13 MS. SISE: Your Honor, the victim company was --
14 rather, the victim government organization was a government
15 organization.

16 THE COURT: Well, has the government organization
17 been identified and notified of the plea hearing?

18 MS. SISE: Yes, your Honor.

19 THE COURT: As well as any rights that they have to
20 have a representative present?

21 MS. SISE: Yes, your Honor.

22 THE COURT: Are there any representatives present?

23 MS. SISE: No, your Honor.

24 THE COURT: Now Mr. Ceraolo, by pleading guilty you
25 are giving up very valuable rights. I want to make sure that

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1 you understand the rights that you're giving up if you plead
2 guilty.

3 First, you have the right to plead not guilty and to
4 continue to plead not guilty.

5 Do you understand that?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: If you plead not guilty, under the
8 Constitution and laws of the United States, you have a right
9 to a speedy and public trial before a jury.

10 Do you understand that?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: You have the right to be represented by
13 an attorney at any trial and at every other stage of the
14 proceedings. If you couldn't afford an attorney, one would be
15 appointed for you by the Court at no charge.

16 Do you understand that?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: At trial, you would be presumed
19 innocent. The Government would have to prove you guilty
20 beyond a reasonable doubt based on the elements I just
21 described to you. You do not have to prove that you are
22 innocent. In other words, if the Government failed to prove
23 you guilty beyond a reasonable doubt, the jury would have to
24 find you not guilty.

25 Do you understand that?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: At trial, witnesses for the Government
3 would have to come to court to testify in your presence. Your
4 lawyer would have the right to cross-examine those witnesses
5 and to raise legal objections to the Government's evidence.

6 Do you understand that?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: At trial, you also have the right to
9 offer testimony or other evidence in your own defense. You
10 have the right to compel witnesses to testify on your behalf.

11 Do you understand that?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: At trial, you would have the right to
14 testify on your own behalf if you chose to. But if you chose
15 not to testify, you could not be forced to or required to.
16 This is because under the Constitution and laws of the United
17 States, you cannot be compelled to be a witness against
18 yourself or to incriminate yourself.

19 Do you understand that?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Also, if you chose not to testify or to
22 present any evidence at all in your defense, the fact that you
23 chose not to do that could not be used against you.

24 Do you understand that?

25 THE DEFENDANT: Yes, your Honor.

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1 THE COURT: If you plead guilty to the crimes
2 charged and if your guilty plea is accepted based on my
3 recommendation, then you'll be giving up your right to a trial
4 and all of the other trial rights that I've just described.
5 There will be no trial in this case. You will stand convicted
6 of the crimes to which you are pleading guilty just as if a
7 jury found you guilty.

8 Do you understand that?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: If you plead guilty, I will have to ask
11 you certain questions about what you did in order to satisfy
12 myself and Judge Block that you are, in fact, guilty of the
13 charges to which you are pleading guilty. You will have to
14 answer my questions truthfully and acknowledge your guilt. In
15 other words, you will be giving up your right not to
16 incriminate yourself.

17 Do you understand that?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Are you willing to give up your right to
20 a trial and all of the other trial rights that I've just
21 described?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Now, as mentioned, there is a written
24 agreement in this case, which is marked as Court Exhibit 1.

25 (Court Exhibit 1 so marked.)

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1 THE COURT: I have the agreement in front of me and
2 I'm going to turn to the last page of the agreement.

3 And let me just confirm, have you had an opportunity
4 to review this document, your agreement with the Government?

5 THE DEFENDANT: Oh, yes, your Honor.

6 THE COURT: Did you discuss this document with your
7 attorney?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: I'm going to first ask -- excuse me.

10 I'm going to read the acknowledgment block here, and
11 it states, quote: I have read the entire agreement and
12 discussed it with my attorney. I understand all of its terms
13 and am entering into it knowingly and voluntarily, end quote.

14 Mr. Ceraolo, is this your signature directly
15 underneath that acknowledgment block?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Mr. Appleton, is that your signature
18 underneath your client's.

19 MR. APPLETON: Yes, your Honor.

20 THE COURT: Ms. Sise, is this your signature under
21 the name of the U.S. Attorney?

22 MS. SISE: Yes, your Honor.

23 THE COURT: And underneath your signature, is that
24 the signature of a supervisory Assistant United States
25 Attorney?

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1 MS. SISE: Yes, your Honor.

2 THE COURT: For the record, this document is also
3 dated today, May 30, 2024.

4 Mr. Ceraolo, by signing this agreement, do you agree
5 to all of the terms of the agreement?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Does this agreement represent your
8 entire understanding of your agreement with the Government
9 concerning your plea of guilty?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Mr. Appleton, have you discussed this
12 agreement with your client?

13 MR. APPLETON: Yes, your Honor.

14 THE COURT: Do you believe he fully understands the
15 terms of the agreement?

16 MR. APPLETON: Yes, I do.

17 THE COURT: Does this agreement contain all of the
18 promises made between the Government and your client in
19 exchange for his plea of guilty?

20 MR. APPLETON: Yes, your Honor.

21 THE COURT: Ms. Sise, does this agreement contain
22 all of the promises made between the Government and the
23 Defendant in exchange for his plea of guilty?

24 MS. SISE: Yes, your Honor.

25 THE COURT: Now I'd like to review the consequences

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1 of pleading guilty with you, Mr. Ceraolo.

2 The charge in Count One, conspiracy to commit
3 computer intrusion, carries the following potential penalties.

4 First, there's a five-year maximum term of
5 imprisonment. There is no minimum term of imprisonment.

6 With respect to supervised release after any prison
7 term, there's a maximum term of three years. What that means
8 is if you were sentenced to a term of imprisonment, then after
9 you are released from prison you will be supervised by the
10 probation department. You will have to abide by certain
11 restrictions and requirements for up to three years.

12 If you violate any of the conditions of supervised
13 release during this period, you can be sentenced to up to two
14 more years without credit -- two more years in prison without
15 credit for the time that you had been on supervised release or
16 in prison in this case.

17 Do you understand that?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: There's a maximum possible fine of the
20 greater of two numbers; either \$250,000 or twice the gross
21 gain to you or the twice the gross loss to someone else.

22 Do you understand that?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: The Court does have the authority to
25 impose restitution where applicable.

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1 Ms. Sise, is restitution an issue in this case?

2 MS. SISE: No, your Honor.

3 THE COURT: As to Count One?

4 MS. SISE: Your Honor, I don't believe that there
5 are any losses to the victim.

6 THE COURT: All right. The agreement indicates that
7 it's mandatory in the full amount of each victim's losses.

8 MS. SISE: Yes, your Honor. We don't have a loss
9 affidavit from the victim at this time, but we're not
10 anticipating that there will be losses that result in
11 restitution.

12 THE COURT: Okay. So, the Government has indicated
13 that there likely might not be a loss. But, ultimately, if
14 there was, then restitution would potentially be a penalty in
15 this case.

16 MS. SISE: Yes, your Honor.

17 THE COURT: Do you understand that, Mr. Ceraolo?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: You are required to pay a mandatory
20 special assessment of \$100 as to Count One.

21 Do you understand that?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Further, forfeiture is mandatory as set
24 forth in your plea agreement. And primarily, you agree to
25 give up all right, title, and interest in certain assets as

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1 set forth in your agreement with the Government. You also
2 agree that you waive or give up any right to a jury trial or
3 hearing on the issue of forfeiture.

4 Do you understand that?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: And I understand that the Government has
7 prepared an order of forfeiture to be filed at some point
8 before sentencing.

9 MS. SISE: Yes, your Honor.

10 THE COURT: With respect to Count Two, aggravated
11 identity theft, it carries the following potential penalties.

12 First, there is a minimum and maximum term of
13 imprisonment of two years.

14 Do you understand that?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: After any prison term, then the period
17 of supervised release could be a maximum of up to one year.
18 So, again, after any prison term, you would then be released
19 and supervised by the probation department for up to one year.

20 If you were to violate the conditions of release,
21 you could be sentenced up to one more year, without credit for
22 the prior time served in this case or any supervision.

23 Do you understand that?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: The fine is the same as in Count One,

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1 which is the greater of the \$250,000 or twice the gross gain
2 to you or twice the gross loss to someone else.

3 Do you understand that?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Further, as mentioned, restitution is an
6 option to the extent that there are any losses to the victim.
7 And the Court would determine that at sentencing.

8 Do you understand that?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: For this count, you also are required to
11 pay the mandatory special assessment of \$100. So, your total
12 special assessment for both counts is \$200.

13 Do you understand that?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Further, as mentioned, the forfeiture
16 that is applicable in the plea agreement still counts as --
17 well, not specific to Count Two; however, forfeiture could be
18 part of your overall -- would be part of your overall
19 sentence.

20 Understand that the sentence imposed for Count Two,
21 aggravated identity theft, has to be consecutive to any
22 sentence that is imposed for Count One.

23 Do you understand that?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: In addition, I understand that your

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1 attorney indicated that there might not be an immigration
2 issue, but I am required to advise you that if you are not a
3 United States citizen, another result of pleading guilty is
4 that you may be removed from the United States, denied
5 citizenship, and denied admission to the United States in the
6 future. However, removal and other immigration consequences
7 would be the subject of a separate proceeding.

8 Do you understand that?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Now, you are pleading guilty to felony
11 offenses. If the district judge accepts your plea, then you
12 will be considered guilty of those felony offenses.

13 A felony conviction means that you may not possess a
14 firearm, ammunition, or destructive device. This means that
15 if you ever possess a firearm, ammunition, or a destructive
16 device after your conviction, you can be prosecuted in the
17 future for being a felon in possession.

18 Do you understand that?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: In addition, having a felony conviction
21 means that you may not have other civil rights, such as the
22 right to vote, to hold public office, or to serve on a jury.

23 Do you understand that?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Ms. Sise, have I misstated or omitted

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1 any of the penalties or consequences for pleading guilty?

2 MS. SISE: No, your Honor.

3 THE COURT: Mr. Ceraolo, do you understand all of
4 the consequences of pleading guilty which I've just described?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Now, as I mentioned, if you plead
7 guilty, Judge Block will sentence you. I want to briefly
8 review how he will determine your sentence.

9 First, the Court will undergo an analysis to
10 determine what a reasonable sentence is in your case. As a
11 first step, the Court must consider the advisory sentencing
12 guidelines that are issued by the United States Sentencing
13 Commission. Those guidelines are just what they say; in other
14 words, they're a guide to help the Court decide how to
15 sentence you. The guidelines are not mandatory. The Court is
16 required to consider them.

17 Have you had a chance to discuss the sentencing
18 guidelines with your lawyer?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: As a second step, the Court will also
21 consider guidelines factors that will allow him to sentence
22 you either above or below the applicable sentencing guidelines
23 range, what's known as departing upward or departing downward
24 from that range.

25 Do you understand that?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Finally, the Court must consider several
3 factors set forth in the sentencing statute against all of the
4 facts and circumstances of this case to determine whether to
5 impose a sentence within or outside the guidelines range.

6 Some of those factors include the nature and the
7 circumstances of the crimes committed, your characteristics
8 and history, the kinds of sentences available, and deterring
9 you or others from committing crimes, among other things.

10 Do you understand that?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: What this means generally is that until
13 your sentencing hearing, you can't know with any certainty
14 what the guidelines range will be, whether there will be
15 grounds to depart upwardly or downwardly, or whether the Court
16 will impose a sentence outside the guidelines.

17 Do you understand that?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: To help the judge decide your sentence,
20 the probation department will prepare a report about the case.
21 It's called a "presentence investigation report," commonly
22 known as a "PSR." The PSR will include facts about the case
23 and about your background and the law that applies to the
24 case.

25 Probation will want to interview you and you can

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1 have your attorney present for that interview. Probation will
2 also talk with the prosecutors or the law enforcement agents
3 involved in the case and possibly others.

4 Do you understand that?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: The report also includes a recommended
7 guidelines calculation based on the circumstances of the
8 offense and the extent of your criminal history. Your
9 attorney will be able to review and discuss this report with
10 you and to challenge information stated in the report. The
11 Government may also challenge information stated in the
12 report.

13 Do you understand that?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: At the sentencing hearing, the Court
16 will hear arguments from your attorney and the attorney for
17 the Government about any objections to the report and then
18 will rule on them. And then the judge will listen to you if
19 you chose to speak, to your attorney, to the Government, and
20 maybe others about what your sentence should be.

21 Do you understand that?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: The judge will calculate the applicable
24 sentencing guidelines and consider them as well as the
25 statutory factors and then he'll impose a sentence based on

1 all of that.

2 Do you understand this process that I've just
3 described?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Now I'm going to ask counsel for both
6 sides what their estimates of the guidelines are in this case.

7 I'm going to start with you, Ms. Sise. And if you
8 could just stick with the total adjusted offense level, the
9 criminal history category, and then the related estimated
10 guidelines range, that would be helpful.

11 MS. SISE: Yes, your Honor.

12 The Government estimates a total score of 12 and the
13 Defendant's criminal history of a category I. If the
14 Defendant clearly demonstrates through acceptance of
15 responsibility --

16 THE COURT: Just the total.

17 MS. SISE: Sorry.

18 Well, with the minus two for acceptance of
19 responsibility, it's an adjusted offense level of ten and a
20 range of six to twelve months for Count One.

21 Because Count Two carries the mandatory consecutive
22 term of imprisonment of 24 months, the effective guidelines
23 range is 30 to 36 months.

24 THE COURT: For all.

25 MS. SISE: For both Counts One and Two.

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1 THE COURT: Thank you very much.

2 Mr. Appleton, do you agree with that estimate?

3 MR. APPLETON: I do, your Honor.

4 THE COURT: Now, while I have asked the attorneys to
5 estimate the applicable guidelines range and there is some
6 agreement regarding that estimate, the estimate that you
7 heard, Mr. Ceraolo, is not binding on the Court. Judge Block
8 will do his own sentencing guidelines calculation and that's
9 the calculation that will be used at sentencing.

10 Do you understand that?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Even if your actual guidelines range is
13 different from the estimate, you will not be allowed to
14 withdraw your plea of guilty.

15 Do you understand that?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Similarly, if you are sentenced to
18 something different from what the estimated sentencing
19 guidelines range will be, you will not be allowed to withdraw
20 your guilty plea.

21 Do you understand that?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: You should also understand that there is
24 no parole in the federal system. If you are sentenced to
25 prison, you will not be released on parole.

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1 Do you understand that?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Now, under some circumstances, you or
4 the Government may have the right to appeal any sentence
5 imposed on you. For example, if you thought the judge made a
6 mistake in sentencing you, you would have the right to appeal.

7 However, in your agreement with the Government, you
8 agreed that you won't appeal or otherwise challenge the
9 sentence if you are sentenced to 36 months or fewer in prison.
10 You may still assert claims of ineffective assistance of
11 counsel.

12 Do you understand that?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Counsels, is there anything else in the
15 written agreement or anything else I need to review with
16 Mr. Ceraolo?

17 Mr. Appleton?

18 MR. APPLETON: I don't believe so, your Honor.

19 THE COURT: Ms. Sise?

20 MS. SISE: No, your Honor.

21 THE COURT: Mr. Ceraolo, do you have any questions
22 about anything that I've reviewed today?

23 THE DEFENDANT: No, I do not, your Honor.

24 THE COURT: Do you need any time to discuss anything
25 with your lawyer?

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1 THE DEFENDANT: No, I do not, your Honor.

2 THE COURT: Mr. Appleton, do you know of any reason
3 why Mr. Ceraolo should not plead guilty?

4 MR. APPLETON: No, your Honor.

5 THE COURT: Are you aware of any viable legal
6 defenses to the charges?

7 MR. APPLETON: No, your Honor.

8 THE COURT: Mr. Ceraolo, are you ready to plead at
9 this time?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Tell me, what is your plea to Count One
12 of the indictment charging you with conspiracy to commit
13 computer intrusions, guilty or not guilty?

14 THE DEFENDANT: Guilty.

15 THE COURT: Are you pleading guilty to Count One
16 voluntarily and of your own free will?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Has anyone threatened or forced you to
19 plead guilty to Count One?

20 THE DEFENDANT: No, your Honor.

21 THE COURT: Other than the promises in your written
22 agreement with the Government, has anyone promised you
23 anything to make you plead guilty to Count One?

24 THE DEFENDANT: No, your Honor.

25 THE COURT: Has anyone made any promise to you as to

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1 what your sentence will be as to Count One?

2 THE DEFENDANT: No, your Honor.

3 THE COURT: And what is your plea to Count Two of
4 the indictment charging you with aggravated identity theft,
5 guilty or not guilty?

6 THE DEFENDANT: Guilty.

7 THE COURT: Are you pleading to Count Two
8 voluntarily and of your own free will?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Has anyone threatened or forced you to
11 plead guilty to Count Two?

12 THE DEFENDANT: No, your Honor.

13 THE COURT: Other than the promises in your written
14 agreement with the Government, has anyone promised you
15 anything to make you plead guilty to Count Two?

16 THE DEFENDANT: No, your Honor.

17 THE COURT: Has anyone made any promise to you that
18 your sentence will be anything other than the mandatory
19 minimum of two years as to Count Two?

20 THE DEFENDANT: No, your Honor.

21 THE COURT: In that case, then, please tell me in
22 your own words what you did to make you guilty of the crimes
23 charged in Count One and Count Two of the indictment.

24 Before you start, I see that you have a document in
25 front of you.

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1 Is that what you plan to read?

2 THE DEFENDANT: Yes.

3 THE COURT: Did you personally prepare that
4 document?

5 THE DEFENDANT: I worked on it with my lawyer.

6 THE COURT: With your lawyer, okay.

7 Did you review everything that's stated in that
8 document?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: And do you agree with everything that is
11 stated in the document?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: All right. If you're going to read it,
14 please do so, but just read loudly and slowly so that the
15 court reporter and I can hear you.

16 Take your time.

17 THE DEFENDANT: I joined a group called Vial in
18 Queens and I joined the group and used my computer expertise
19 to help their efforts in April and May 2022.

20 I was a computer expert and Vial, a cyber group,
21 recruited me to help them during the pandemic to obtain
22 personal computer log-in credentials of others.

23 On May 7, 2022, I was aware that another member of
24 the group, a co-defendant Mr. Singh, used the user name and
25 password belonging to a law enforcement officer without that

1 officer's knowledge or consent to gain access to a federal
2 government database without authorization. Mr. Singh informed
3 me of what he did.

4 On May 8, I shared the stolen credentials of the law
5 enforcement officer with others in the group Vial. I knew
6 what we were doing was unlawful.

7 I should state that I never met anyone in the group
8 in person nor did I participate in any acts outside of my
9 home, adding that the transfer of the stolen credential as
10 described was in support of the conspiracy to commit computer
11 intrusion charged in Count One.

12 THE COURT: Okay. Just to be clear, you knew when
13 you joined this group that it was for the purpose of
14 committing computer intrusions?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Ms. Sise, does this allocution satisfy
17 all of the essential elements of the charges to which
18 Mr. Ceraolo is pleading guilty?

19 MS. SISE: Yes, your Honor.

20 THE COURT: Any facts that the Government will be
21 proffering otherwise?

22 MS. SISE: No, your Honor.

23 THE COURT: Mr. Appleton, is there anything that
24 you'd like to add?

25 MR. APPLETON: No, your Honor.

1 THE COURT: And based on the information given to
2 me, I make the following findings:

3 First, I find that Mr. Ceraolo is competent to
4 proceed.

5 Second, I find that he is acting voluntarily and
6 that his plea is not the result of any force, threats, or
7 undisclosed promises.

8 Third, I find that he fully understands his rights
9 and the potential consequences of his guilty plea.

10 Finally, I find that there is a factual basis for
11 the plea; meaning, that he did what is charged in Counts One
12 and Two of the indictment.

13 Therefore, I respectfully recommend that the Court
14 accept the Defendant's plea of guilty to Counts One and Two of
15 the indictment.

16 Now, Mr. Ceraolo, the next step is that you will
17 meet with someone from the probation department to prepare
18 that presentence investigation report that I talked about
19 earlier. I urge you to cooperate with them and be truthful
20 with them; of course, with the advice of your attorney.

21 Now, sentencing in this case will be before
22 Judge Block and will be scheduled after the presentence
23 investigation report is disclosed. The parties must review
24 and comply with Judge Block's individual rules for sentencing
25 submissions.

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1 Mr. Ceraolo is currently on bond.

2 Is the Government seeking detention at this time?

3 MS. SISE: No, your Honor.

4 THE COURT: Then Mr. Ceraolo, you're going to
5 continue to be on pretrial supervision while your sentencing
6 is pending and you are still required to comply with all of
7 the previously imposed release conditions.

8 For the record, I am returning Court Exhibit 1,
9 which is the written agreement between the Government and the
10 Defendant, to the Government for its files and to provide a
11 copy of the fully executed agreement to the defense.

12 Mr. Appleton, is there anything else on behalf of
13 Mr. Ceraolo?

14 MR. APPLETON: No, your Honor.

15 THE COURT: Ms. Sise, anything for the Government?

16 MS. SISE: No, your Honor.

17 THE COURT: Then this proceeding is adjourned.

18 Thank you all very much.

19 (Matter concluded.)

20

21 E X H I B I T S

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23 Court Exhibit 1 Page 16

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